

Notice of Allowability

Application No.

10/632,148

Examiner

Zachary C. Tucker

Applicant(s)

BORREDON ET AL.

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1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 30 September 2005.
2. ☒ The allowed claim(s) is/are 1-9.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Response to Amendment

As requested in the correspondence from applicants, filed 30 September 2005 (hereinafter "present amendment"), which is in reply to the Office action mailed 13 September 2005 (hereinafter "previous Office action"), claims 1 and 8 have been amended.

Status of Claim Rejections - 35 USC § 103

In the previous Office action, claims 1, 2, 4-7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Us 5,453,516 (Fischer) in view of Smith and Linnhoff, *Chemical Engineering, Research and Design*, vol. 66, pages 195-228 (May 1988).

In view of the present amendment to the independent claims, 1 and 8, which now requires the process to be a process for the N-methylation of nitrogenous heterocycles having at least one nitrogen atom bonded to a hydrogen atom, the rejection based on Fisher in view of Smith and Linnhoff is hereby withdrawn.

Allowable Subject Matter

Claims 1-9 are allowed.

Reasons for indication of allowable subject matter were provided in the Office action mailed 8 February 2005. All rejections which have been set forth in the prosecution of the instant application have been withdrawn.

In addition to the pertinent prior art cited thus far in previous Office actions, the examiner wishes to bring to applicants' attention US 6,326,501 (Jiang), which discloses a process for N-methylating indole compounds with dimethyl carbonate, in a batchwise

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manner. No suggestion to continuously remove methanol produced during the reaction is found in Jiang, nor is there any suggestion to make the process continuous in the Jiang patent. Furthermore, the manner in which the examples demonstrate the process being carried out essentially teaches away from continuous removal of methanol. The reaction as demonstrated in the examples of Jiang are conducted under reflux, which recirculates all of the substances leaving as vapor from the heated reaction mixture, including the methanol produced by the reaction of dimethyl carbonate with the starting material. The teaching in Jiang that the reaction should be conducted under reflux teaches away from the limitation in the instant claims, "while continuously removing the methanol produced during the reaction."

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

All Post-Allowance Correspondence concerning this application must be mailed to:

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Or you can fax them to the Office of Patent Publications at 703-872-9306, in order to expedite the handling of such correspondence as amendments under 37 CFR 1.312; information disclosure statements, and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

For information concerning status of correspondence sent after receipt of the Notice of Allowance, please contact the Correspondence Branch at (703) 305-8027.

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The Notice of Allowance also has an insert containing contact information on other items, including Issue Fees, receipt of formal drawings and the status of the application.

zt

A handwritten signature in black ink, appearing to be 'zt' followed by a horizontal line.A handwritten signature in black ink, appearing to be 'James O. Wilson'.

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600